



# ***The Real Facts***

***A Critical Analysis of the Bush Administration's Claims on CAFTA  
Prepared by the Democratic Staff of the Ways and Means Committee***

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## ***CAFTA Moves Backwards from Current U.S. Law***

***CAFTA abandons over two decades of U.S. trade law and policy, weakening commitments on the rights of working people.***

- ***Since 1984, U.S. law has conditioned duty-free access to the U.S. market on CAFTA countries making progress towards attaining basic labor standards.***
- ***CAFTA would drop even these minimum requirements, leaving the U.S. with no recourse if CAFTA countries chose not to have child labor laws or other basic standards of decency and fairness to working people.***

### **Current U.S. law conditions duty-free trade on CAFTA countries achieving basic worker rights.**

- ▶ Since 1984, U.S. law has conditioned duty-free ("free trade") access to the United States on CAFTA countries taking steps to implement these rights.
- ▶ This condition was **strengthened** in 2000, to require that countries attain these standards.
- ▶ If a CAFTA country does not make progress in implementing these rights, current law gives the United States the right to limit or revoke duty-free access (i.e., impose trade sanctions) on that country.
- ▶ The U.S. determination under current law is made unilaterally and may not be challenged.

### **CAFTA's provision on worker rights is substantially weaker than current U.S. law.**

- ▶ Unlike current U.S. law, **CAFTA does not contain any condition requiring a country to achieve – or even move towards achieving – a basic level of worker rights. Under CAFTA, no matter how bad a CAFTA country's law – even if it allows child labor and forced labor in export industries – the United States may not challenge it.**
- ▶ **CAFTA allows countries to weaken with impunity their laws relating to rights of working people.** In fact, the race to the bottom has already started: laws in at least one

CAFTA country have been weakened in recent months.

- ▶ Unlike current law, enforcement of the weak worker rights provision in CAFTA is extremely limited. **Unlike the other commercial provisions in CAFTA**, the primary mode of enforcing the labor provision is not with trade measures. Instead, a country that fails to enforce its laws may be required to pay a fine – to itself, as monies are to be spent on labor initiatives in the territory of the country complained against.

**Current U.S. law has been used as leverage to improve basic rights of working people.**

- ▶ The Bush administration claims that suspension of GSP trade benefits is a “very blunt instrument that would harm the very workers whose rights are at issue.” This assertion is contrary to fact – and contrary to the history of the GSP/CBI program.
  - In more than 20 years, the U.S. has suspended GSP benefits on only 19 occasions for IPR, labor and other violations. GSP eligibility has been restored for 8 countries.
  - Typically, the U.S. has used the potential for suspension of CBI/GSP benefits to promote IPR, labor and other key rule of law changes.
    - ▶ In June 1993, a GSP petition against Costa Rica led to reform of its Labor Code in October 1993, to provide protections for union organizers and prohibiting solidarity associations from engaging in collective bargaining.
    - ▶ In June 1992, a petition against Guatemala resulted in recognition of a maquila union for the first time in six years in August 1992. During the period 1993-1997 when Guatemala was under GSP review, the government raised the minimum wage, established new labor courts and streamlined the legal recognition process.
    - ▶ In 2000, Guatemala’s status under GSP was reopened due to the firing of banana plantation workers at a Del Monte company. In April 2001, Guatemala passed a labor reform bill that granted new rights to farm workers.
    - ▶ In 1992, El Salvador was put on continuing GSP review for workers rights violations. In 1994, El Salvador changed its laws to make it easier for unions to be recognized without employer interference.
    - ▶ In 1987, Nicaragua’s GSP benefits were suspended. In 1996, Nicaragua amended its Labor Code to streamline procedures regarding the right to strike and raised the minimum age of employment to 14. Nicaragua’s GSP benefits have not been restored because they have not re-applied.

### **CASE STUDY**

**Guatemala Under CBI:** In October 1999, over 900 Del Monte banana workers were fired by Del Monte for protesting labor conditions. A GSP petition led USTR for the first time to self-initiate a worker rights review in October 2000. Guatemala subsequently passed labor reforms in April 2001, which included granting farm workers new rights to strike during harvesting season.

**Guatemala Preparing for CAFTA:** In August 2004, the Guatemala Constitutional Court struck down key parts of the 2001 labor reforms. The Court rescinded the authority of the Ministry of Labor to impose fines for labor rights violations. This provision had been a key element of the 2001 labor reforms. Under CAFTA, the U.S. has no recourse to challenge Guatemala’s actions.